

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JUSTIN WILLIAMS AND REBEKAH §
WILLIAMS, A/N/F M.L.W., §
§
Petitioners. §

NOTICE OF REMOVAL

Codi Van Duzee, Carl Lewis, Julie Anderson, Dr. Greg Cartwright, and Dr. Michael Hill, (“Proposed Deponents”), file this Notice of Removal, and for good cause would show:

Justin and Rebekah Williams, as Next Friend of M.L.W., a minor, are the Petitioners in a civil action brought under Texas Rule of Civil Procedure 202 (“the Petition”) to allegedly investigate claims of discrimination and/or violations of M.L.W.’s rights, and violations of Title IX. Pet. at 3, ¶ 11. Petitioners filed this suit on or about November 10, 2022, in the 96th Judicial District Court of Texas, Tarrant County, in a matter entitled *Justin Williams and Rebekah Williams, A/N/F/ M.L.W.*, Cause No. 096-338395-22. Petitioners have requested that the state district court issue an order authorizing the taking of pre-suit depositions of five (5) employees of the Arlington Independent School District, Proposed Deponents, in support of their allegations that M.L.W. was discriminated against through what can be characterized as sexual discrimination and/or harassment, thereby allegedly violating M.L.W.’s rights under Title IX. Pet. at 3, ¶ 11.

The earliest of the Proposed Deponents was served with this suit on March 3, 2023. Copies of all state court documents are attached hereto and incorporated herein via an Appendix, and comprise all process, pleadings, and orders served in the action.

II.

This notice of removal is timely filed under 28 U.S.C. § 1446(b) in that it is filed within thirty (30) days of service of Petitioners’ Petition.

III.

The district courts of the United States have original jurisdiction over actions pursuant to 28 U.S.C. § 1331 because the claims arise under federal law in that the causes of action are created by federal law. Petitioners allege that M.L.W. was discriminated against when she was sexually discriminated against under Title IX, which can only raise a federal question (Title IX of the Education Amendment Acts of 1972, 20 U.S.C. § 1681 et seq.). Pet at 3, ¶ 11. There is not a state law available to Petitioners under which they can claim discrimination under Title IX as specified in the Petition. *Id.*

Petitioners also specifically state the employees were “acting in their official capacity.” Pet. at 3, ¶ 11. Petitioners’ claim that “Arlington ISD is a stranger to this proceeding” is a deliberate falsehood intended to attempt to thwart the school district from assisting or defending its employees. Pet. at 7, ¶ 31. Indeed, the Court knows that one cannot sue individuals under Title IX, and that this proposed discovery is specifically intended to consider pursuing litigation against the school district. *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 257 (2009) (“Title IX reaches institutions and programs that receive federal funds, 20 U.S.C. § 1681(a), which may include nonpublic institutions, § 1681(c), but it has consistently been interpreted as not authorizing suit against school officials, teachers, and other individuals”), citations omitted.

IV.

Removal of this action is proper under 28 U.S.C. § 1441 since it is a civil action brought in state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1331.

V.

Proposed Deponents will timely serve this Notice of Removal upon Petitioners by serving their attorney of record and filing it with the state court.

WHEREFORE, Codi Van Duzee, Carl Lewis, Julie Anderson, Dr. Greg Cartwright, and Dr. Michael Hill, Proposed Deponents in this action, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove this action from the 96th Judicial District Court Tarrant County, Texas, to this Court on this 23rd day of March, 2023.

Respectfully submitted,

**EICHELBAUM WARDELL
HANSEN POWELL AND MUÑOZ, P.C.**

By: /s/ Dennis J. Eichelbaum
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Certificate of Service

The undersigned certifies that a true and correct copy of this pleading was served through the Court's electronic filing system and by registered electronic mail to George H. Shake, Duffee & Eitzen LLP, 4311 Oak Lawn Avenue, Suite 600, Dallas, Texas 75219, george@d-elaw.com, on this 23rd day of March, 2023.

/s/ Dennis J. Eichelbaum
Dennis J. Eichelbaum